

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

BASF AGRO B.V.,
MERIAL LIMITED, and
MERIAL SAS,

*

*

Plaintiffs,

*

vs.

*

CASE NO. 3:07-CV-125 (CDL)

CIPLA LIMITED, *et al.*,

*

Defendants,

*

VELCERA, INC. and FIDOPHARM,
INC.,

*

*

Intervenors.

*

O R D E R

Intervenors Velcera, Inc. and FidoPharm, Inc. (collectively "Velcera") seek clarification of this Court's June 21, 2011 Order. (ECF Nos. 148 & 149). Specifically, they seek guidance as to the meaning of two separate parts of the Court's Order when read together. The first part of the Order that is in question enjoined Velcera from:

selling, causing to be sold, offering for sale, and causing to be offered for sale in the United States veterinary products for which Cipla participated in the development, manufacture, and/or packaging, which products contain fipronil and methoprene, regardless of brand name, including but not limited to the veterinary products Protektor Plus, PetArmor Plus, TrustGard Plus, and Velcera Fipronil Plus.

Order 47-48, June 21, 2011, ECF No. 75.

The second pertinent part of the Order reads as follows:
"The Court intends to limit the specific injunctive relief against Velcera to its conduct in concert with Cipla." *Id.* at 48 n.11 (citing *Additive Controls & Measurement Sys., Inc. v. Flowdata, Inc.*, 96 F.3d 1390, 1395-96 (Fed. Cir. 1996)).

Reading these two provisions in the Order together and in context with the entire Order, the Court finds that the meaning of the Court's Order is clear:

From the date of the Court's June 21, 2011 Order going forward, Velcera is enjoined from selling, causing to be sold, offering for sale, and causing to be offered for sale in the United States veterinary products that it has developed, manufactured, and/or packaged in concert with Cipla, which products contain fipronil and methoprene, regardless of brand name, including but not limited to the veterinary products Protektor Plus, PetArmor Plus, TrustGard Plus, and Velcera Fipronil Plus.

See Order 47-48 & n.11, June 21, 2011, ECF No. 75.

The Court declines to issue an advisory opinion as to whether Velcera's planned product violates the Court's Order. See *Pac. & S. Co. v. Duncan*, 792 F.2d 1013, 1015 (11th Cir. 1986) (declining to issue an advisory opinion as to the future possibility that the enjoined party may wish to engage in certain conduct).

IT IS SO ORDERED, this 22nd day of March, 2012.

S/Clay D. Land

CLAY D. LAND
UNITED STATES DISTRICT JUDGE